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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,088	09/09/2003	Matthew Frushour	11924.001	5907

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EXAMINER
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KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/660,088

**Applicant(s)**

FRUSHOUR, MATTHEW

**Examiner**

Michael J Kyle

**Art Unit**

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 6, 8-11, 13-18, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodgers (U.S. Patent No. 3,244,443). With respect to claims 1, 9, 14, 15, 17, 18, and 20, Rodgers discloses a door holder comprising an elongated arm (10), a first attaching means (14), a magnetic head (21) extending longitudinally from a surface of a wall and having a magnetic surface, a metal plate (22) having first and second sides, and second attaching means (24, 26) for attaching the second side of the metal plate to a door. The magnetic head (21) is secured to the first side of the metal plate by a magnetic force of attraction. The magnetic head and magnetic surface each have a circumference in alignment with the circumference of the first end of the arm. The magnetic surface has a circumference in alignment with the circumference of the magnetic head.

3. With respect to claims 2, 3, 10, and 11, Rodgers discloses the magnetic surface (outward facing surface of 21) to have a flat surface, and the metal plate (22) has flat surfaces on the first and second sides.

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4. With respect to claims 5, 6, 13, and 16, Rodgers discloses the first attaching means to be a screw (14) disposed at the second end (11) of the elongated arm (10) and the magnetic force is broken by pulling the door such that the plate and arm are separated.
5. With respect to claims 8 and 21, Rodgers discloses the screw to have a threaded outside wall.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodgers. Rodgers shows the metal plate (22) having a substantially circular configuration, but fails to show the plate to have a rectangular configuration. However, changing the shape of the plate from a circular shape to a rectangular is considered within the level of one having ordinary skill in the art, as this change brings about no new or unexpected result. It would have been obvious to one having ordinary skill in the art at the time of invention to make the plate of a rectangular configuration, as this brings about no new or unexpected result over a circular plate.
8. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodgers in view of Smith, Jr. ("Smith", U.S. Patent No. 5,611,110). Rodgers discloses the second side of

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the plate (22) to be secured to a door by nails (24). Rodgers does not disclose the use of adhesive for this function.

9. Smith teaches an arrangement that includes a face plate (15) fastened to a door. Smith discloses the plate may be fastened to the door by "Nails, adhesives, and other means" (column 5, line 11). Smith thereby establishes a mechanical equivalence between nails and adhesive. It would have been obvious to one having ordinary skill in the art at the time of the invention to use either nails or adhesive, as taught by Smith, as these methods of attaching are equivalent within the art.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to further show the state of the art with respect to magnetic and other door stops: Tomita, Chiang, Luciana, Murphy, and Ikejiri et al.

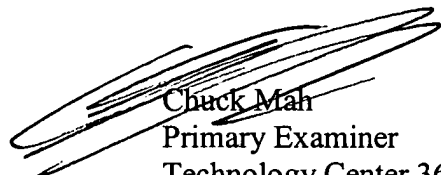
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk



Chuck Mah  
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